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8
9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE DISTRICT OF ARIZONA**

11 Robert Steven Cutler, *et al.*

12 Plaintiffs,

13 v.

14 Mark Napier, Sheriff Pima County, *et al.*,

15 Defendants.

No.: 18-CV-00383-FRZ

16
17 **CONTROVERTING STATEMENT OF**
18 **FACTS IN RESPONSE TO**
19 **DEFENDANTS BARNES AND**
20 **NAPIER'S SUPPORTING**
21 **STATEMENT OF FACTS**

- 22 1. Admit.
- 23 2. Admit
- 24 3. Admit
- 25 4. Admit.
- 26 5. Admit.
- 27 6. Admit.
- 28 7. Admit except that Plaintiffs state that they believe that the sample of LSD was from the "same batch" taken by David. Plaintiffs cannot know for sure.
8. Deny. CSOF ¶ 98-106; CSOF Exhibit 8.
9. Deny. CSOF ¶ 98-106; CSOF Exhibit 8.
10. Admit as the term "contribute" was defined by Dr. Winston. Deny as contradicts 98-106; CSOF Exhibit 8.

1 11. Admit.
2 12. Admit.
3 13. Admit.
4 14. Admit.
5 15. Admit.
6 16. Deny as this is an incomplete statement. LSD in doses substantially higher than
7 present in David's blood may cause or contribute to hyperthermia. Thornton and Winston
8 17. Deny. Thornton testimony and report
9 18. Deny. CSOF Exhibit 11.
10 19. Admit.
11 20. Admit that this was Dr. Winston's testimony, but deny CSOF ¶ 98-106; CSOF
12 Exhibit 8.
13 21. Admit that this was Dr. Winston's testimony, CSOF ¶98-106; CSOF Exhibit 8.
14 22. Admit.
15 23. Admit.
16 24. Admit.
17 25. Admit.
18 26. Admit.
19 27. Admit.
20 28. Admit.
21 29. Admit.
22 30. Admit.
23 31. Admit.
24 32. Admit.
25 33. Admit.
26 34. Admit.
27 35. Admit,
28 36. Admit.

1 37. Admit.
2 38. Admit.
3 39. Admit.
4 40. Admit.
5 41. Admit.
6 42. Admit.
7 43. Admit.
8 44. Admit but no evidence to support running.
9 45. Admit.
10 46. Admit.
11 47. Admit.
12 48. Admit.
13 49. Admit.
14 50. Admit.
15 51. No fact is offered by this statement. It is a statement of foundation for what
16 appears to be a demonstrative exhibit and ignores the testimony of Mrs. Powell and Haro that
17 the hill was relatively easily climbed.
18 52. Admit.
19 53. Admit.
20 54. Admit.
21 55. Admit.
22 56. Admit.
23 57. Admit.
24 58. Admit that this is consistent with the statement of Barnes. However, Deny. CSOF
25 Exhibit 8.
26 59. Deny. CSOF Exhibit 2, 8, 9 & 11.
27 60. Deny. Id.
28 61. Deny. Id.

1	62.	Admit.
2	63.	Admit.
3	64.	Admit.
4	65.	Admit.
5	66.	Deny. CSOF Exhibit 9 & 10.
6	67.	Admit.
7	68.	Admit.
8	69.	Admit.
9	70.	Admit.
10	71.	Admit.
11	72.	Admit.
12	73.	Admit.
13	74.	Admit.
14	75.	Admit.
15	76.	Admit.
16	77.	Admit.
17	78.	Admit.
18	79.	Deny. CSOF Exhibit 2; 9 &10.
19	80.	Admit.
20	81.	Admit.
21	82.	Admit.
22	83.	Admit.
23	84.	Admit.
24	85.	Admit

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26
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28

1
2 **RESPECTFULLY SUBMITTED** this November 2, 2020.

3 **WITTHOFT DERKSEN, P.C.**

4 */s/ Scott H. Zwillinger*

5 Scott H. Zwillinger

6 Attorneys for Plaintiffs

7
8 **CERTIFICATE OF SERVICE**

9
10 I hereby certify that on this November 2, 2020 I caused the foregoing document to be
11 filed electronically with the Clerk of Court through the CM/ECF System for filing; and served
12 on all counsel of record via the Court's CM/ECF system.

13 */s/ L. Simonini*